

Golden, Rothschild, Spagnola, Lundell, Levitt & Boylan, P.C.

1011 Route 22 West, Suite 300

P.O. Box 6881

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Attorneys for Defendants, Borough of Dunellen, Police Department of Dunellen, William M. Robins, the Council of Dunellen and Richard DeLuca

Our File No. 20.72575

Document Electronically Filed

CHAUNCEY SCOTT; AND DONNA SCOTT
AND ERNEST SCOTT, HIS PARENTS,

Plaintiffs

vs.

DUNELLEN BORO; POLICE DEPARTMENT
OF DUNELLEN; MAYOR OF DUNELLEN,
COUNCIL OF DUNELLEN; COUNCIL
MEMBERS OF DUNELLEN; CHIEF OF
POLICE OF DUNELLEN; DUNELLEN
BUSINESS ADMINISTRATOR (WILLIAM
ROBINS); "JOHN AND MARY SMITH"
1-30; SUPERVISORY, SUPERIOR AND
PATROL OFFICERS AND EMPLOYEES
"DOE" OF THE DUNELLEN POLICE
DEPARTMENT; J. DEANGELO; JAMES
DANIELS; AND RICHARD DELUCA (ALL
OF THE AFORESAID DEFENDANTS ARE
REFERRED TO IN THE BODY OF THE
COMPLAINT AS "DUNELLEN
DEFENDANTS" UNLESS OTHERWISE
NOTED),

Defendants.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

NOTICE OF FILING

TO:

Clerk of the Court

United States District Court

Martin Luther King, Jr. Federal Building and Courthouse

0 Walnut Street

Newark, NJ 07102

NOTICE TO:

Clerk, Middlesex County Superior Court

One Kennedy Square

P. O. Box 2633

New Brunswick, NJ 08903

Gerald Gordon, Esq.
Law Offices of Gerald Gordon
83 Paterson Street,
P.O. Box 800
New Brunswick, NJ 08903-0800
Attorney for Plaintiffs

Craig Corson, Esq.
Hoagland, Longo, Moran, Dunst & Doukas
40 Paterson Street
P.O. Box 480
New Brunswick, NJ 08903
Attorney for Defendants, James Daniels and J. D'Angelo

Please take notice that a Notice of Removal of this action from the Superior Court of New Jersey, Law Division, Middlesex County, Docket Number MID-L-1536-08 to the United States District Court for the District of New Jersey (a copy of the Notice of Removal is attached hereto) was filed on September 22, 2008 in the United States District Court for the District of New Jersey, Newark Vicinage.

GOLDEN, ROTHSCHILD, SPAGNOLA,
LUNDELL, LEVITT & BOYLAN, P.C.
Attorneys for Defendants, Borough
of Dunellen, Police Department of
Dunellen, William M. Robins, the
Council of Dunellen and Richard
DeLuca

/s/ Gary S. Spagnola

GARY S. SPAGNOLA

Dated: September 22, 2008

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REFERRED TO IN THE BODY OF THE
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NOTED),

Defendants.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

NOTICE OF REMOVAL

The Defendants, Borough of Dunellen, Police Department of the Borough of Dunellen, William M. Robins, the Council of Dunellen and Richard DeLuca, hereby give notice to the Court, pursuant to 28 U.S.C. § 1441, of the removal of this action which has been pending in the Superior Court of New Jersey, Law Division, Middlesex County, under Docket Number: MID-L-1536-08 (hereinafter the "State action"). The removal to this Court, Newark Vicinage, is proper for the reasons set forth below:

1. On or about February 22, 2008, the Plaintiffs, Chauncey Scott, Donna Scott and Ernest Scott, commenced the State action against the Defendants, arising out of incidents which allegedly occurred on February 22, 2006. A copy of the Complaint is attached hereto as **Exhibit A**. No further proceedings have been had in that action.

2. The Plaintiff, Chauncey Scott, has alleged, inter alia, that the Defendants violated his civil rights and constitutional rights under 42 U.S.C. § 1983.

3. The moving parties deny the allegations set forth in the Complaint.

4. This is a Civil Action over which the United States District Court has original jurisdiction pursuant to 28 U.S.C. § 1331 (federal question jurisdiction).

5. This entire matter is one which may be removed to this Court by virtue of the provisions of 28 U.S.C. § 1441(b) and in accordance with 28 U.S.C. § 1446.

6. This action is one which may be properly removed to this Court under 28 U.S.C. § 1441 for the reasons that:

(a) The Plaintiffs seeks relief for claims based upon an alleged violation of federal law, 42 U.S.C. § 1983; and,

(b) This Court has original jurisdiction over claims arising under the Constitution, laws and treaties of the United States pursuant to 28 U.S.C. § 1331; and,

(c) The venue of this action is proper in this Court.

7. Plaintiff served the Defendants, the Borough of Dunellen and Borough of Dunellen Police Department, on August 26, 2008 with a copy

of the Summons and Complaint. This was the first time any of the Defendants had notice of the claims asserted by the Plaintiffs. A copy of the Certification of William M. Robins, Municipal Clerk and Business Administrator for the Borough of Dunellen, as to said Defendants is attached hereto as **Exhibit B**.

8. I have spoken with Chief Gerard Cappella of the Borough of Dunellen Police Department who advised that John Bruder, Esq., the Borough Attorney, and each of the named Defendant Police Officers to the State action have consented to remove this case to the United States District Court for the District of New Jersey, Newark Vicinage. I have also spoken to William M. Robins, Business Administrator for the Borough of Dunellen, and he has advised me that he, the Borough of Dunellen and the Council of the Borough of Dunellen have consented to remove this case to the United States District Court for the District of New Jersey. I have spoken to Richard DeLuca, Municipal Prosecutor for the Borough of Dunellen, and he has advised me tht he consents to the removal.

9. Craig L. Corson, Esq., counsel representing the Defendants, J. DeAngelo and James Daniels, has also consented to this Notice of Removal on behalf of his clients.

10. Pursuant to 28 U.S.C. § 1446(d), written notice of this Notice of Removal has been given to all parties involved in the State action.

11. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal has been filed with the Clerk of the Superior Court of New Jersey, Law Division, Middlesex County.

12. To the best of my understanding, no Defendant has entered

an appearance, answered or otherwise filed any responsive pleading to the Summons and Complaint in the State action.

WHEREAS, the Defendants, Borough of Dunellen, the Police Department of the Borough of Dunellen and William M. Robins, respectfully give notice to this Court of the removal of the State action in the Superior Court of New Jersey, Law Division, Middlesex County to the United States District Court for the District of New Jersey, Newark Vicinage.

GOLDEN, ROTHSCHILD, SPAGNOLA,
LUNDELL, LEVITT & BOYLAN, P.C.
Attorneys for Defendants, Borough
of Dunellen, Police Department
of the Borough of Dunellen,
William M. Robins, the Council of
Dunellen and Richard DeLuca

/s/ Gary S. Spagnola

GARY S. SPAGNOLA

Dated: September 22, 2008

EXHIBIT “A”

GÉRALD GORDON, ESQUIRE AS ATTORNEY FOR
PLAINTIFFS
83 PATERSON STREET
PO BOX 800
NEW BRUNSWICK NJ 08903-0800
tel 732 991 5720
fax 732 247 3837
geraldgordonlaw@aol.com
ATTORNEY FOR PLAINTIFF(S)

CHAUNCEY SCOTT; AND DONNA SCOTT. AND
ERNEST SCOTT, HIS PARENTS.

COMPLAINT

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY
LAW DIVISION - CIVIL
DOCKET NO. MID L 1536 08

DUNELLEN BORO; POLICE DÉPARTMENT OF DUNELLEN;
MAYOR OF DUNELLEN, COUNCIL OF DUNELLEN;
COUNCIL MEMBERS OF DUNELLEN; CHIEF OF POLICE OF DUNELLEN;
DUNELLEN BUSINESS ADMINISTRATOR (WILLIAM ROBINS); "JOHN AND MARY
SMITH" 1- 30; SUPERVISORY, SUPERIOR AND PATROL OFFICERS AND
EMPLOYEES "DOE" OF THE DUNELLEN POLICE DEPARTMENT; J. DEANGELO;
JAMES DANIELS; AND RICHARD DELUCA (ALL OF THE AFORESAID DEFENDANTS
ARE REFERRED TO IN THE BODY OF THE COMPLAINT AS "DUNELLEN
DEFENDANTS" UNLESS OTHERWISE NOTED).

BY WAY OF COMPLAINT AGAINST THE DEFENDANTS, PLAINTIFFS RESIDING IN
THE CITY OF PLAINFIELD, NEW JERSEY SAY:

VENUE

THE BORO OF DUNELLEN IS LOCATED IN MIDDLESEX COUNTY, NEW JERSEY.

COMMON ALLEGATIONS

1. THE TITLE 59 NOTICE (INITIAL) OF CLAIM (HEREINAFTER REFERRED TO AS "NOTICE") DATED 22 MAY 06 IS MADE A PART HEREOF AS THOUGH FORMALLY SET FORTH HERIN AT LENGTH.
2. SAID "NOTICE" IS ATTACHED HERETO AND MADE A PART HEREOF TO THE EXTENT PROVIDED HEREIN.
3. SAID NOTICE, DUE TO A CLERICAL/TYPOGRAPHICAL ERROR MISTAKENLY SETS FORTH THE DATE OF ILLEGAL CONDUCT AS FEBRUARY 11, 2006 INSTEAD OF THE CORRECT DATE OF FEBRUARY 22, 2006.
4. THE MIDDLESEX COUNTY MUNICIPAL JOINT INSURANCE FUND BROUGHT THIS TYPOGRAPHICAL ERROR TO THE ATTENTION OF PLAINTIFFS' ATTORNEY SHOTRTLY AFTER ITS RECEIPT OF THE "NOTICE".
5. INCONSISTENCIES AND/OR CONTRADICTIONS IN THE "NOTICE", IF ANY, ARE TO BE DETERMINED, APPLIED, AND INTERPRETED TO THE BENEFIT OF, BEST INTERESTS OF, AND MOST FAVORABLE TO, PLAINTIFFS, AND AS SUCH ARE WITHOUT PREJUDICE OR ADVERSE TO THE INTERESTS AND RIGHTS OF PLAINTIFFS.
6. THE CONDUCT OF THE DEFENDANTS. ONE OR MORE OF THEM, COMMENCED ON 22 FEB 06 AND CONTINUED THEREAFTER, IN WHOLE OR IN PART, UNTIL THE PRESENT TIME., AND IN WHOLE OR IN PART, IS EXPECTED TO CONTINUE IN THE FUTURE
7. AS SUCH THIS COMPLAINT MAY BE AMENDED (OR NOT DUE TO THE NOTICE PLEADING LAW OF NEW JERSEY). TO THE EXTENT NECESSARY, IF ANY, AND/OR A SEPARATE COMPLAINT MAY BE FILED.
8. TO THE EXTENT ANY DEFENDANT ASSERTS IT HAS NOT RECEIVED A "NOTICE", THEN AT THE LEAST, CIVIL RIGHT VIOLATIONS AND CONSTITUTIONAL RIGHTS VIOLATIONS AND/OR ANY OTHER CLAIMS ARE WHICH ARE NOT SUBJECT TO ANY "NOTICE" REQUIREMENTS ARE REMAIN AND AS SUCH ARE APPLICABLE AND VIABLE.EACH CLAIM IN THE NOTICE WHETHER THEY BE CIVIL RIGHTS VIOLATIONS, FEDERAL OR STATE; CONSTITUTIONAL RIGHTS VIOLATIONS, WHETHER FEDERAL OR STATE; ANY / AND ALL OTHER CLAIMS. FEDERAL OR STATE, NOT SUBJECT TO A NOTICE AND ALL CLAIMS WHICH ARE SUBJECT TO "NOTICE"

ARE SEPARATE AND DISTINCT CAUSES OF ACTION, AND AS SUCH CONSTITUTE A SEPARATE AND DISTINCT COUNT AS TO EACH IN THIS COMPLAINT AS THOUGH THEY WERE SET FORTH BY A SEPARATELY NUMBERED COUNT.

9. DEFENDANT DUNELLEN POLICE DEPARTMENT, THE DEFENDANT DOES 1-30, THE DEFENDANT CHIEF OF POLICE, THE DEFENDANTS DEANGELO, DANIELS, AND DELUCA ILLEGALLY, REFUSED, NEGLECTED, FAILED, AND OTHERWISE ILLEGALLY WOULD NOT PROVIDE DISCOVERY TO WHICH PLAINTIFF CHAUNCEY SCOTT WAS ENTITLED TO, AS REQUIRED BY LAW, IN CONNECTION WITH THE EVENTS RELATING TO AND ARISING OUT OF THE CHARGING, ARREST, CONFINEMENT, PROSECUTION, ETC., OF HIM, BEGINNING ON 22 FEB 06 TOGETHER WITH ANY AND ALL OTHER ILLEGAL CONDUCT RELATING TO AND CONCERNING CHAUNCEY THAT HAPPENED TO HIM AND TO WHICH HE WAS SUBJECTED BY THE AGENTS SERVANTS AND/OR EMPLOYEES OF THE DEFENDANT DUN ELLEN POLICE DEPARTMENT BEGINNING ON 22 FEB 06.
10. AS OF 22 FEBRUARY 2008, THE AFORESAID DISCOVERY. HAS STILL NOT BEEN PROVIDED.
11. ONE OF THE CONSEQUENCES OF SAID DISCOVERY IS THAT CHAUNCEY AS WELL AS HIS PARENTS HAVE BEEN UNABLE TO LEARN THE IDENTITIES OF ANY OTHERS WHO SHOULD BE NAMED IN THIS COMPLAINT.
12. AS SUCH, THE DEFENDANTS "SMITH 1-30", AND THE DEFENDANTS "DOE 1 - 30" ARE FICTITIOUS IN NAME, THEIR TRUE NAMES BEING UNKNOWN.

FIRST THROUGH LAST COUNT:

1. THE **COMMON ALLEGATIONS** AFORESAID ARE SET FORTH HEREIN AS THOUGH FORMALLY ENUNCIATED AT LENGTH.
2. TO THE EXTENT THERE IS ANY INCONSISTENCY OR ARE ANY INCONSISTENCIES, OR CONTRADICTION OR CONTRADICTIONS IN THE **COMMON ALLEGATIONS**, THEN THEY ARE TO BE INTERPRETED, APPLIED, AND DETERMINED TO THE BENEFIT OF, BEST INTERESTS OF, AND MOST FAVORABLE TO, PLAINTIFFS, AND AS SUCH AS WITHOUT PREJUDICE OR ADVERSE TO THE INTEREST AND RIGHTS OF PLAINTIFFS.
3. THE ILLEGAL CONDUCT ON THE PART OF THE DEFENDANTS, ONE OR MORE OF THEM IS SET FORTH HEREIN AS THOUGH FORMALLY ENUNCIATED AT LENGTH.
4. AS THE RESULT OF THE ILLEGAL CONDUCT OF THE DEFENDANTS, ONE OR MORE OF THEM, AS SET FORTH IN THE "NOTICE", THE PLAINTIFFS, ONE OR MORE OF THEM HAVE SUFFERED THE DAMAGES, INJURIES, AND ADVERSE CONSEQUENCES DUE TO THE ILLEGAL CONDUCT OF THE DEFENDANTS, ONE OR MORE OF THEM, AS SET FORTH IN THE SAID "NOTICE" AS WELL AS ANY AND ALL OTHER DAMAGES, ADVERSE CONSEQUENCES AND INJURIES FLOWING THEREFROM AND/OR RELATING THERETO, WHICH SUCH DAMAGES, INJURIES AND ADVERSE CONSEQUENCES ARE CONTINUING AND ONGOING, IN WHOLE OR IN PART.

WHEREFORE EACH PLAINTIFF DEMANDS JUDGEMENT FOR THE INJURIES, DAMAGES AND ADVERSE CONSEQUENCES AS SET FORTH AFORESAID, FOR DAMAGES, COMPENSATORY AND/OR PUNITIVE AND/OR EXEMPLARY AND/OR TREBLE IN NATURE TO THE EXTENT ALLOWED BY LAW, AS WELL AS ALL OTHER DAMAGES, REMEDIES AND RELIEF ALLOWED BY LAW, TOGETHER WITH COUNSEL/ATTORNEYS' FEES/CHARGES, COSTS, LEGAL EXPENSES, AND ALL OTHER EXPENSES. TOGETHER WITH INTEREST.

JURY DEMAND

TRIAL BY JURY OF TWELVE IS DEMANDED.

CERTIFICATION

IT IS BELIEVED THERE ARE NO OTHER PARTIES WHICH ARE NEEDED BY PLAINTIFFS TO BE INCLUDED IN THIS COMPLAINT, OTHER THAN THOSE IDENTIFIED IN THE COMPLAINT NAMED FICTITIOUSLY.

THERE ARE NO OTHER ACTIONS AT LAW, ARBITRATION, OR OTHERWISE PENDING, TO THE BEST OF PLAINTIFFS' KNOWLEDGE AND BELIEF.


GERALD GORDON, ATTORNEY FOR PLAINTIFFS

DATED 22 FEBRUARY 2008

EXHIBIT “B”

Golden, Rothschild, Spagnola, Lundell, Levitt & Boylan, P.C.

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Defendants.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CIVIL ACTION NO.

CERTIFICATION OF
WILLIAM M. ROBINS

WILLIAM M. ROBINS hereby certifies as follows:

1. I am the Municipal Clerk and the Business Administrator for the Borough of Dunellen and, as such, I am familiar with certain facts as set forth herein.

2. On August 26, 2008, I received by mail copies of ten Summonses and ten Complaints directed to James Daniels, Police Officer; Richard DeLuca, Prosecutor; Dunellen Boro; Police Department;

Mayor of Dunellen; Council of Dunellen; Council Members; Chief of Police; Business Administrator; J. DeAngelo, Police Officer; and John/Mary Smith 1 through 30 in the above-referenced lawsuit.

3. On August 26, 2008, I accepted service for the following named Defendants in this matter, namely James Daniels, J. DeAngelo, Dunellen Boro, the Police Department, Council of Dunellen, Richard DeLuca and myself.

4. To my knowledge, August 26, 2008 was Defendants' first notice of Plaintiffs' claim.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By: 
WILLIAM M. ROBINS

Dated: September 22, 2008